

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

LP ASSETS, LLC,

Plaintiff,

v.

Case No. 8:21-cv-542-T-KKM-SPF

DEUTSCHE BANK NATIONAL  
TRUST COMPANY,

Defendant.

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**ORDER**

Defendant Deutsche Bank National Trust Company moves to dismiss Plaintiff LP Assets’s complaint. (Doc. 12). LP Assets failed to respond to Deutsche’s motion, and the time to do so has passed. *See* Local Rule 3.01(c). Because of LP Assets’s failure to respond to Deutsche’s motion, the Court will treat the motion as unopposed and for this reason will grant the motion. *See id.* (“If a party fails to timely respond, the motion is subject to treatment as unopposed.”); *see also Magluta v. Samples*, 162 F.3d 662, 664–65 (11th Cir. 1998) (stating that courts have discretion to grant motions to dismiss for the non-moving party’s failure to timely respond under local rules); *Ammiedie v. Sallie Mae, Inc.*, 485 F. App’x 399, 401 n.1 (11th Cir. 2012) (“[T]he district court does have the discretion under *Magluta* . . . to dismiss based on a failure to respond.”).

Plaintiff’s claims here are not unique. “This case is one of approximately 40 cases filed by Plaintiff’s attorney in courts around Florida from Key West to Pensacola)

claiming that Defendant engaged in a scheme to ‘steal’ the plaintiffs’ property by filing fraudulent foreclosure actions in state court.” *Decoursy v. Deutsche Bank Nat’l Tr. Co.*, No. 5:12cv14-TKW-MJF, 2021 WL 650277, at \*1 (N.D. Fla. Feb. 18, 2021) (Wetherell, J.). The legal merit behind the plaintiff’s claims is questionable at best. *See id.* And nearly identical cases have been dismissed for various reasons—from voluntary dismissal to failure to prosecute.<sup>1</sup> *Hahn, et al. v. Deutsche Nat’l Tr. Co.*, No. 8:21-CV-39-WFJ-TGW, Doc. 27, (M.D. Fla. May 12, 2021) (Jung, J.) (dismissing for failure to prosecute); *3417 70th Glen E. Land Tr. v. Deutsche Nat’l Tr. Co.*, No. 8:20-CV-3090-VMC-AEP, Doc. 36 (M.D. Fla. Feb. 24, 2021) (Covington, J.) (dismissing pursuant to Notice of Voluntary Dismissal); *Kenny v. Deutsche Nat’l Bank Tr. Co.*, No. 2:21-CV-9-SPC-NPM, Doc. 42, (M.D. Fla. Apr. 30, 2021) (Chappell, J.) (dismissing for failure to serve, failure to prosecute, and failure to comply with Court orders). Considering LP Assets’s failure to respond to Deutsche’s motion to dismiss and its non-prosecution and voluntary dismissals in nearly identical cases, dismissal here is appropriate.

Deutsche requests attorney’s fees and costs (Doc. 12 at 15), but it put forth no argument on how the standard for awarding attorney’s fees and costs as sanctions is met. *See Baker v. Alderman*, 158 F.3d 516, 524 (11th Cir. 1998) (discussing standard for imposing sanctions). Thus, this request is denied without prejudice.

Ultimately, Deutsche’s motion to dismiss (Doc. 12) is **GRANTED**. This action

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<sup>1</sup> The Court may judicially notice dockets available online. *See Paez v. Sec’y, Fla. Dep’t of Corr.*, 947 F.3d 649, 651–52 (11th Cir. 2020).

is **DISMISSED**. The Clerk is directed to terminate any pending motions and deadlines and to close this case.

**ORDERED** in Tampa, Florida, on May 18, 2021.



Kathryn Kimball Mizelle  
United States District Judge